HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No.3316 of 2005

Date of decision : 1.12.2006.

Amarjit Kaur and another **.....Petitioners**

versus

Puran Singh **.....Respondent**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Manish Kumar Singla, Advocate for the petitioners

Mr.Mahesh Gupta, Advocate for the respondent.

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ORDER

HEMANT GUPTA, J. (Oral)

The challenge in the present revision petition is to the order passed by the learned trial Court on 2.3.2005, whereby the application filed under Order 7, Rule 11 of the Civil Procedure Code was allowed and the petitioners were directed to affix ad-valorem Court fee on the value of the suit.

The plaintiff-petitioners have filed the present suit as indigent persons, for recovery of an amount of Rs.1,20,000/- as arrears of maintenance. The petitioners were permitted to sue as indigent persons by the learned trial Court. Subsequently an application was filed by the defendant that the land measuring 4 kanals comprising in Khasra No.150//13/1 has not been reflected by the plaintiffs in the schedule of property attached with the application, therefore, the plaintiffs should be directed to affix ad-valorem court fee as the plaintiffs have concealed the fact of occupation of the said land

Learned counsel for the petitioners has pointed out that the land measuring 4 Kanals is said to be purchased by the deceased husband of the petitioner No.1, but the fact of the matter is that no mutation in respect of said land has been sanctioned in favour of the petitioners. In fact, the respondent is in possession of the said land being father of Gurcharan Singh, deceased husband of petitioner No.1 and that the petitioners were not even aware of such land.

On 7.11.2006, learned counsel for the respondent has sought time to seek instructions from the respondent as to whether the possession of 4 kanals of land can be delivered to the plaintiffs. Today, the learned counsel for the respondent stated that he has not got any instructions from the respondent. It is, thus, apparent that the respondent is in possession of the said land and has sought to non-suit the petitioners on the basis of land which is not even in their possession.

Consequently, the present revision petition is allowed. The order passed by the learned trial Court dated 2.3.2005 is set-aside and the application filed by the respondent is dismissed.

Learned trial Court is directed to decide the suit expeditiously, in accordance with law.

(HEMANT GUPTA)
JUDGE

December 1, 2006
**mohinder*